

In paragraph 3 of the Office Action (“Action”), the Examiner rejects claims 20-22 under 35 U.S.C. §120(b) as allegedly being anticipated by U.S. Patent No. 5,991,717 to Minde et al. (“Minde”). Applicants respectfully traverse this rejection.

In order to support a rejection under 35 U.S.C. §102, the cited reference must teach each and every claimed element. In the present case, claims 20-22 are not anticipated by Minde because Minde fails to disclose each and every claimed element as discussed below.

Independent claim 20 defines a method of encoding an audio signal to obtain an encoded base band audio signal. The method includes, inter alia, detecting whether a to be processed passage of the audio signal has a pulse-train-like character or a non-pulse-train-like character, and associating a control signal with the encoded base band audio signal, the control signal indicating, whether a passage of the encoded base band audio signal has a pulse-train-like character or not. Furthermore, a passage has a pulse-train-like character when the passage includes a series of pulses having associated therewith a pulse period, and a passage has a non-pulse-train-like character, when the passage does not include a series of pulses having associated therewith the pulse period. Likewise, independent claim 22 defines an apparatus for encoding an audio signal to obtain an encoded base band audio signal which includes means for utilizing the method of claim 20.

Minde discloses an analysis-by-synthesis linear predictive speech coder including, among other things, an adaptive codebook for generating an adaptive excitation, means for generating a multi-pulse excitation, and means for generating a transformed binary pulse excitation. (See the abstract of Minde) However, Minde fails to anticipate the present invention as defined by claims 20-22 because Minde fails to disclose detecting whether a to be processed passage of an audio

signal has a pulse-train-like character or a non-pulse-train-like character, and associating a control signal with the encoded base band audio signal, the control signal indicating whether or not a passage of the encoded base band audio signal has a pulse-train-like character.

In rejecting claims 20 and 22, the Examiner asserts that Minde discloses a method and apparatus as claimed in as much as Minde discloses a method and apparatus for encoding a base band audio signal. To support this assertion the Examiner points to column 3, lines 6-54 of Minde. This assertion is unfounded for the following reason.

Although Minde discloses an apparatus and method for encoding a base band audio signal, nowhere in the cited passage (i.e., column 3, lines 6-54), or elsewhere in Minde, is there any disclosure of detecting whether a portion of the audio signal to be processed has a pulse-train-like character or a non-pulse-train-like character. Furthermore, nowhere in Minde is there any disclosure of associating a control signal to the encoded base band audio signal that indicates whether or not a passage of the encoded base band audio signal has a pulse-train-like character. Therefore, independent claims 20 and 22 are patentable over Minde because Minde fails to disclose each and every claimed element.

Claim 21 depends from independent claim 20. Therefore, claim 21 is patentable over Minde for at least those reasons presented above with respect to claim 20. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 20-22 under 35 U.S.C. §102(b).

The application is in condition for allowance. Notice of same is earnestly solicited. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Penny Caudle (Reg. No. 46,607) at the telephone

number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

Terrell C. Birch

Registration No.: 19,382

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant